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March 14, 2008

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The Honorable Vincent J. Poppiti
Special Master
Blank Rome LLP
Chase Manhattan Center, Suite 800
Wilmington, DE 19801-4226

VIA ELECTRONIC FILING
AND HAND DELIVERY

Re: *ProMOS Technologies, Inc. v. Freescale Semiconductor, Inc.*,
C.A. No. 06-788-JJF (DM 4)

Dear Judge Poppiti:

At the Special Master's request during yesterday's teleconference, ProMOS Technologies, Inc. ("ProMOS") has identified in the attached document those ProMOS discovery requests relating to "Freescale Products" (as defined in Freescale's discovery requests) that we believe are most critical in terms of Freescale's potential withholding of discovery and the need for court-ordered supplementation regarding certain of those products.

As noted in ProMOS's previous motions to compel, many of our discovery requests have sought to identify Freescale Products and to obtain technical and damages-related information on those products. We also conducted a Rule 30(b)(6) deposition, pursuant to orders issued by Judge Farnan, that sought information concerning Freescale Products. As a result, the issue at hand potentially infects much of the discovery in this case. It is not possible for ProMOS to know at this point the extent to which various discovery requests require supplementation and/or the implications of thereof. That is because Freescale has been unwilling to specify the extent to which there are Freescale Products for which discovery has not been provided based on Freescale's ubiquitous objection that ProMOS's discovery requests are overly broad. In the attached document, we have specifically identified the 5 interrogatories, 30 document requests, and Rule 30(b)(6) notice that are most critically in need of supplementation to cover any products that Freescale has shielded from discovery, or a certification from Freescale that it has not withheld any documents or discovery with respect to Freescale Products. Many of these discovery requests are overlapping and call for the same or similar information.

The precise number of discovery requests that require supplementation, the extent of supplementation required, and the consequences of the additional information will depend on what Freescale has withheld from discovery to date. Accordingly, as stated in our March 10 letter brief (DM 4), the precise relief required to remedy Freescale's discovery misconduct will depend in significant part on the types of products that Freescale has shielded from discovery. To the extent some of those products are technically the same as or similar to the accused products

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that have already been identified (for example, they use the same core and do not have any other data caches), we may only need damages information for such products. To the extent any of the products contain cache memories outside the core and/or previously-unidentified cores, we may also need technical documents so that we can generate infringement charts and otherwise prepare our infringement case for trial or evidentiary sanctions.

Respectfully,

/s/ John G. Day

John G. Day

JGD: nml

Attachment

cc: Mary B. Graham, Esquire (via electronic mail; w/attachment)
Steven J. Routh, Esquire (via electronic mail; w/attachment)
David L. Witcoff, Esquire (via electronic mail; w/attachment)

PROMOS INTERROGATORIES:

INTERROGATORY NO. 1:

Identify by model number, model version, trade name, and internal designation each and every Freescale Product that you have manufactured or sold since 2000. For each such product, also identify the type of product (i.e., microcontroller, microprocessor, processor, digital signal processor, controller core, processor core or systems or components containing the same, etc.), the manufacturer, and the date of first sale in the United States. Your response may take the form of a table or chart, for example:

INTERROGATORY NO. 7:

With respect to the products identified and/or requested to be identified in Interrogatory No. 1, state (a) the total unit and dollar volumes of each such product that were manufactured, sold, or offered for sale by you beginning in the year 2000, including projections through calendar year 2012, and (b) the revenues, costs (fixed and variable), gross profit and net profit for each such product beginning in the year 2000, including projections through calendar year 2012.

INTERROGATORY NO. 28:

Identify each product designed, manufactured, or sold by Freescale that contains, uses, or works with cache memory, including those currently under development.

INTERROGATORY NO. 29:

Identify (by customer, product name, product number, date, quantity, sales price, shipping location, billing location, and any other information available to Freescale) all sales of Freescale Products that were (a) shipped to; and/or (b) billed to; and/or (c) sold pursuant to an agreement where title was transferred in; and/or (c) used in locations within the United States.

INTERROGATORY NO. 32:

Identify all documents provided by Freescale to its customers (including documents posted on any website) concerning the use, installation, operation, structure, function or implementation of any Freescale Product.

RULE 30(B)(6) DEPOSITION TESTIMONY

The Rule 30(b)(6) deposition testimony that Judge Farnan ordered Freescale to provide on October 31, 2007 and December 20, 2007 regarding the documents maintained by Freescale relating to, and features associated with, Freescale Products.

PROMOS'S REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST NO. 23:

All documents relating to design reviews and design review meetings, including but not limited to, all notes, minutes, reports, action item lists and management summaries, relating to each version of each cache memory used with, incorporated in or relied on by any Freescale Product.

REQUEST NO. 27:

All documents relating to drawings, schematics, blueprints, manufacturing specifications, engineering specifications, design specifications, product test specifications, part specifications, assembly specifications and other documents relating to the design, development, or manufacture of any Freescale Product.

REQUEST NO. 32:

All versions of operation manuals, repair manuals, or user manuals for any Freescale Product.

REQUEST NO. 33:

All manufacturing and/or production drawings for any Freescale Product, including but not limited to hardware drawings, engineering drawings, assembly drawings, and blueprints.

REQUEST NO. 38:

All documents relating to the conception, engineering, design, research, development, manufacture, testing, use, repair and/or operation of each version of each model of Freescale Product, including but not limited to specifications, schematics, block diagrams, data sheets, layouts, databases, depictions, photographs, simulations, test results, manuals, journals, notes, notebooks, communications, and correspondence.

REQUEST NO. 43:

For each Freescale Product, documents sufficient to show the place and process of manufacture, models manufactured, units manufactured, and destination of units manufactured.

REQUEST NO. 44:

To the extent not produced in response to any other request, all reference designs and schematics relating to each version of each model of Freescale Product.

REQUEST NO. 46:

Circuit diagrams for each version of each model of Freescale Product.

REQUEST NO. 52:

All documents relating to source code, object code, pseudo code, flow charts or design specifications of the circuit diagrams, Verilog code and/or VHDL code, and reticle layout code for each version of each model of Freescale Product.

REQUEST NO. 57:

All documents relating to the operation of each version of each model of Freescale Product.

REQUEST NO. 62:

Documents sufficient to show the device and system architecture of each version of each model of Freescale Product.

REQUEST NO. 68:

Documents sufficient to identify any third parties that manufacture any Freescale Products.

REQUEST NO. 69:

All articles, speeches, presentations or interviews, both internal and external, that have been written and/or given by your employees, officers, directors or other of your representatives relating to Freescale Products.

REQUEST NO. 74:

All documents relating to any effort by Freescale or anyone else on its behalf to design, redesign, commercialize or modify any Freescale Product in view of the patents-in-suit.

REQUEST NO. 75:

All documents relating to any attempt by Freescale or anyone on its behalf to design around and/or avoid infringement of the patents-in-suit by any Freescale Product.

REQUEST NO. 88:

Documents sufficient to show by month or calendar quarter for each year since 2000 the number of each version of each model of Freescale Product manufactured, used, sold or distributed in the United States.

REQUEST NO. 89:

Documents sufficient to show by month or calendar quarter for each year since 2000 the volume of sales in dollars from the sale or distribution of each version of each model of Freescale Product.

REQUEST NO. 90:

All projections, forecasts, business plans, strategic plans, fiscal plans, marketing plans or sales plans relating to the sale of Freescale Products from 2000 to the present, including documents containing projections through calendar year 2012.

REQUEST NO. 92:

All versions of all part number decoders or legends for each version of each model of Freescale Product.

REQUEST NO. 93:

Current and historical price lists for each version of each model of Freescale Product.

REQUEST NO. 97:

All documents relating to sales, distribution or importation agreements entered into between Freescale and any third party for each version of each model of Freescale Product.

REQUEST NO. 98:

Documents sufficient to show each of your distributors, resellers and customers of each version of each model of Freescale Product.

REQUEST NO. 101:

Summary documents categorized by year and by product type and name regarding the following: (1) Freescale's total unit and dollar volumes for Freescale Products manufactured, sold, or offered for sale by you from 2000 to the present, including projections through calendar year 2012; and (2) revenues, costs (fixed and variable), gross profit, and net profit for all such products manufactured, sold or offered for sale by you from 2000 to the present, including projections through calendar year 2012.

REQUEST NO. 102:

Summary documents categorized by year and by product type and name regarding gross expenses, including but not limited to direct labor costs, direct manufacturing costs, selling costs, variable overhead costs, incurred in the manufacture, distribution, or sale of Freescale Products from 2000 to the present, including projections through calendar year 2012.

REQUEST NO. 118:

Documents sufficient to correlate the product name, product, product number, part number, product family, process flow, circuit group or family, and circuit name for each Freescale Product.

REQUEST NO. 119:

Documents sufficient to determine the total unit and dollar volumes of Freescale Products manufactured in whole or in part within the United States for each quarter beginning in the calendar year 2000 and continuing through projections for calendar year 2012.

REQUEST NO. 120:

Documents sufficient to determine the total unit and dollar volumes of Freescale Products that are manufactured outside of the United States and subsequently sold into, shipped into, transferred into, located in and/or used in the United States for each quarter beginning in the calendar year 2000 and continuing through projections for calendar year 2012. Include in your response any Freescale Products that have been incorporated into any other product that is, will be, or has been sold into, shipped into, transferred into, located in and/or used in the United States by any person besides Freescale.

REQUEST NO. 123:

Documents sufficient to identify (by part number, product name, and product family) any customer product(s) that constitute, include or incorporate any Freescale Product.

REQUEST NO. 124:

Documents sufficient to identify (by date, geographic location, dollar value and quantity) any sales(s) of customer product(s) that constitute, include or incorporate any Freescale Product.

REQUEST NO. 125:

All documents, including but not limited to documents provided by Freescale to its customers, that provide or contain instruction on how to use any Freescale Product, including but not limited to reference designs, application notes and/or specific discussions or instructions as to what types of memory should be used in conjunction with specific Freescale Products.